

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LAUREL OFFICE PARK LIMITED
PARTNERSHIP,

Plaintiff,

v.

CML INNOVATIVE TECHNOLOGIES, INC.,

Defendant.

Case No. 09-13690

HONORABLE ARTHUR J. TARNOW
SENIOR UNITED STATES DISTRICT JUDGE

**ORDER DENYING DEFENDANT’S MOTION TO DISMISS UNDER RULE 12(b) FOR
LACK OF SUBJECT MATTER JURISDICTION [10]**

Now before the Court is the Defendant’s Motion to Dismiss under Rule 12(b) for lack of subject matter jurisdiction [10].

The parties have fully briefed the issues raised in the motion. Pursuant to Local Rule 7.1(f)(2), the Court will decide this motion without oral argument.

Upon review of the record, this Court makes the following findings:

Plaintiff correctly notes that the Sixth Circuit has concluded that “[a] court must not dismiss an action for failure to meet the amount in controversy requirement unless it appears ‘to a legal certainty that the claim is really for less than the jurisdictional amount.’” *See Basicomputer Corp. v. Scott, et al.*, 973 F.2d 507, 510 (6th Cir. 1992) (quoting *St. Paul Mercury Indem. Co. v. Red Cab Co.*, 303 U.S. 283, 289 (1938)). Moreover, “It is well established that claims can be aggregated to satisfy the jurisdictional amount requirement.” *See Klepper v. First American Bank*, 916 F.2d 337, 341 (6th Cir. 1990).

Here, Plaintiff’s complaint and response to Defendant’s motion make clear that Plaintiff is bringing a claim for not only breach of contract seeking unpaid rent but also for fraud in the inducement seeking damages for alleged misrepresentations Defendant made that induced Plaintiff to enter into the parties’ agreement. Based on Plaintiff’s complaint and response, this Court is satisfied that Plaintiff is seeking an aggregate amount of damages exceeding \$75,000. It does not

appear “to a legal certainty” that the amount in controversy is less than the jurisdictional requirement. Nothing has been offered to this Court to support such a finding. Moreover, the record is void of any indication that Plaintiff has alleged damages exceeding \$75,000 in bad faith as a ploy to invoke the jurisdiction of this Court.

Accordingly, **IT IS HEREBY ORDERED** that Defendant’s Motion to Dismiss under Rule 12(b) for lack of subject matter jurisdiction [10] is **DENIED**.

SO ORDERED.

s/Arthur J. Tarnow
Senior United States District Judge

Dated: July 2, 2010

I hereby certify that a copy of the foregoing document was served upon counsel of record on July 2, 2010, by electronic and/or ordinary mail.

s/LaShawn R. Saulsberry
Case Manager